



Furthermore, Plaintiffs' claims under §§ 11 and 12(a)(2) of the 1933 Act, 15 U.S.C. §§ 77k, 77l(a)(2) (Counts I and II asserted against Morgan Keegan and MAM), must be dismissed because Plaintiffs have failed to plead that the Funds' registration statements contained any actionable misrepresentations or omissions. Plaintiffs likewise fail to allege facts sufficient to show that either MAM or Morgan Keegan is a statutory seller under § 12(a)(2), as required. In addition to these fundamental flaws, Plaintiffs' own allegations establish an absence of any loss caused by any alleged misstatement or omission, an absence which bars their recovery on any of their claims.

Plaintiffs' claims under § 10(b) of the 1934 Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5 (Counts V and VI asserted against Morgan Keegan and MAM), likewise fail because Plaintiffs have alleged no fraudulent conduct on the part of MAM or Morgan Keegan, and have failed to plead any facts giving rise to a strong inference of scienter.

Because Plaintiffs have failed to plead primary violations of §§ 11 and 12(a)(2) of the 1933 Act or § 10(b) of the 1934 Act, their claims for control person liability under § 15 of the 1933 Act, 15 U.S.C. § 77(o) (Count III asserted against Morgan Keegan, MAM and MK Holding), and § 20(a) of the 1934 Act, 15 U.S.C. § 78t (Count VII asserted against Morgan Keegan, MAM and MK Holding), also fail as a matter of law. Furthermore, Plaintiffs have failed to plead any facts demonstrating that MAM, Morgan Keegan, or MK Holding is a control person with respect to any alleged primary violator.

Finally, Plaintiffs' claims under various provision of the ICA, 15 U.S.C. § 80b-1 *et seq.* (Count IV against Morgan Keegan, MAM and MK Holding), necessarily fail because the ICA does not provide for a private right of action.

As such, Morgan Keegan, MAM and MK Holding respectfully request that Plaintiffs' CAC be dismissed with prejudice.

DATED this 11th day of February 2010.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

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